

**Idaho Board of Health and Welfare
Minutes
November 19, 2009**

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Bldg.
450 W. State Street
Boise, Idaho 83720

Board Members Present

Richard Roberge, M.D., Chairman
Janet Penfold, Vice Chairman
Richard Armstrong, Secretary
Dan Fuchs
Quane Kenyon
Darrell Kerby
Stephen Weeg
Tom Stroschein
Sara Stover

Staff Present

Drew Hall, Deputy Director, Family and Welfare Services
Richard Schultz, Deputy Director, Health Services
David Taylor, Deputy Director, Support Services
Betty Mills, Special Assistant to the Board
Robert Luce, Deputy Attorney General-Human Services
Russ Barron, Welfare Administrator
Michelle Britton, Family and Community Services Administrator
Jane Smith, Public Health Administrator
Christine Hahn, M.D., State Epidemiologist
Bethany Gadzinski, Chief, Bureau of Substance Use Disorders
Scott Tiffany, Chief, Bureau of Behavioral Health
Randy May, Medicaid Deputy Administrator
Steve Bellomy, Chief, Bureau of Audits & Investigations
Cameron Gilliland, Chief, Bureau of Family and Community Services
Landis Rossi, Family and Community Services Program Manager
Kathryn Turner, Health Program Manager
Dieuwke Spencer, Chief, Bureau of Health
Mitch Scoggins, Health Program Specialist
Stephanie Miller, FACS Program Specialist
Jamie Simpson, Licensing & Certification Program Supervisor
Tamara Prisock, Human Resources Program Manager
Tom Shanahan, Public Information Manager
Ross Mason, Regional Director, Region 3

Others Present

Tammy Perkins, Office of the Governor
Jeff Morrell, Redmont Health Services
Russell Duke, Central District Health Director
Kathy Moore, Southwest District Health

Call to Order

Following proper notice in accordance with Idaho Code Section 67-2343 and pursuant to call by the Chairman, the meeting of the Idaho Board of Health and Welfare was called to order by Dr. Richard Roberge, Chairman of the Board, at 11:05 a.m. Thursday, November 19, 2009, at the Pete T. Cenarrusa Bldg., 450 W. State Street, Boise, Idaho.

Roll Call

Richard Armstrong, Secretary, called the roll. Roll call showed nine members present. Absent and excused – Senator Patti Anne Lodge and Representative Sharon Block. With seven voting members present, Chairman Roberge declared a quorum.

Public Comment Period

Chairman Roberge opened the floor for public comment. There was none. Before the Board advanced to the next order of business, Darrell Kerby and Quane Kenyon suggested the Board not limit Public Comment to the beginning of the meeting, but allow the public to comment before each item of interest.

There was discussion pertaining to the designated times on the agenda by the board members. Robert Luce, Deputy Attorney General recommended not to include times on the agenda. He suggested dividing agenda items into AM and PM sections. Tom Shanahan, Public Information Manager was also consulted regarding the information posted in our Press Release. It states, "All times listed are tentative and may change at the Board's discretion." These recommendations and suggestions will be taken into consideration when preparing the agenda's for upcoming board meetings.

ADOPTION OF MINUTES FROM BOARD MEETING ON AUGUST 17, 2009

Motion: Quane Kenyon moved that the minutes of the August 17, 2009 Board meeting be adopted as prepared.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion Carried.

REVIEW OF RULES AND LEGISLATIVE PROPOSAL SUMMARY DOCUMENTS

A summary of rules and Legislative Proposals being presented to the 2010 Idaho Legislature was presented to the Board.

RULES FOR COMMUNITY SUBSURFACE SEWAGE DISPOSAL SYSTEMS

Docket No. 41-0402-0901 (Repeal)

This rule was made effective on July 1, 1993 and applied only to Public Health District 4. On October 17, 2007, all seven public health districts were delegated certain responsibilities for regulation of subsurface sewage disposal by the Idaho Department of Environmental Quality, pursuant to IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." This request is to repeal IDAPA 41.04.02 because the standards provided in IDAPA 58.01.03 promote more consistent and effective statewide regulation of subsurface sewage disposal.

This rule was presented to the Board for their review and comments. There being none, the Board advanced to the next order of business.

RULES FOR ON-SITE SEWAGE TREATMENT SYSTEMS

Docket No. 41-0403-0901 (Repeal)

This rule was made effective on May 6, 1990 and applied only to Public Health District 4. On October 17, 2007, all seven public health districts were delegated certain responsibilities for regulation of subsurface sewage disposal by the Idaho Department of Environmental Quality, pursuant to IDAPA 58.01.03 Individual/Subsurface Sewage Disposal Rules. This request is to repeal IDAPA 41.04.03 because the standards provided in IDAPA 58.01.03 promote more consistent and effective statewide regulation of subsurface sewage disposal.

This rule was presented to the Board for their review and comments. There being none, the Board advanced to the next order of business.

LETTER OF SUPPORT FOR PUBLIC HEALTH LEGISLATION

A letter of support from the Board of Health and Welfare was requested and proposed by Russ Duke, Central District Health Director and supported by the other 6 District Directors for a change in the Pharmacy Rules. If the Idaho Board of Health and Welfare were to agree with this letter, they would be directing the Legislature to authorize the Board of Pharmacy to allow licensed nurses employed by the public health districts to label and deliver refills of prepackaged medications to patients of the district. According to a best practice study conducted in 2005 by HealthMETRICS, Incorporated under contract with the Idaho Department of Health and Welfare, this change will save the combined seven districts approximately \$65,000 - \$100,000 annually.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare sign a letter of support in favor of The District Health Departments proposed Legislation.

Second: Tom Stroschein

Vote: Ayes: Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 6
Nays: Fuchs

Motion carried.

IDAHO REPORTABLE DISEASES

Docket No. 16-0210-0901 (Pending)

The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The department is amending the proposed rule based on comments received during the comment period to clarify:

1. Preventing spread of health hazards from dead human bodies; and
2. Reporting requirements for rabies/human, animal, and post-exposure prophylaxis.

Motion: I, Stephen Weeg, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for "Idaho Reportable Diseases," presented under Docket No. 16-0210-0901, with an effective date of Sine Die, 2010.

Second: Quane Kenyon

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

RULES GOVERNING PROCEDURES AND TESTING TO BE PERFORMED ON NEWBORN INFANTS

Docket No. 16-0212-0901 (Pending)

This rule change is necessary to update this chapter of rule to reflect currently accepted medical practices for newborn screening. The effective date of this rule is July 1, 2010. Based on comment to the rule, the legal authority section is being updated. This rule is under the authority of the Board of Health; however, based on statute, it is also under the authority of the Director of the Department of Health and Welfare. A reference to the Director's authority is being added to the legal authority section.

Motion: I, Tom Stroschein, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for "Rules Governing Procedures and Testing to be Performed on Newborn Infants," presented under Docket No. 16-0212-0901, with an effective date of Jul1, 2010.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

Docket No. 16-0322-0901 (Pending)

These rules are being amended from the proposed text based on comments received during the comment period and at the public hearing. Definitions for “call system” and “exploitation” have been clarified, an interim care plan has been added for both Department clients and private-pay residents, “non-sterile exam gloves” have been added to the list of basic supplies furnished by the facility, added that a call system must provide the resident’s right to privacy, amended that the facility must provide written notice of a fee change within five days of the fee change when a resident needs additional care and services.

Motion: I, Dan Fuchs, move that the Idaho Board of Health and Welfare adopt the “Pending” rules for “Residential Care or Assisted Living Facilities In Idaho,” presented under Docket No, 16-0322-0901, with an effective date of Sine Die, 2010.

Second: Quane Kenyon

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

DEVELOPMENTAL DISABILITIES AGENCIES

Docket No. 16-0411-0901 (Pending)

The Department amended these rules to change the renewal of certification for Developmental Disabilities Agencies from the current two years to three years. This change will align the Department’s certification period with the Commission on Accreditation of Rehabilitative Facilities (CARF), and will help meet legislative intent to encourage service providers to obtain national accreditation.

Motion: I, Janet Penfold, move that the Idaho Board of Health and Welfare adopt the “Pending” rules for “Developmental Disabilities Agencies,” presented under Docket No. 16-0411-0901, with an effective date of Sine Die, 2010.

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

CRIMINAL HISTORY AND BACKGROUND CHECKS

Docket No. 16-0506-0901 (Pending Fee)

The Department has added certain individuals and providers who are required to have a criminal history and background checks under other Department rule chapters. This chapter

of rules is being updated to add those individuals and providers to the list of those who are required to have checks, including references to the programs' rule chapters. The programs or individuals being added are: Alcohol or Substance Use Disorders Treatment Facilities and Programs for Adults, Designated Examiners and Designated Dispositioners. These rules are also being updated for references and amended to add additional disqualifying crimes to better protect vulnerable adults and children.

Motion: I, Darrell Kerby, move that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for "Criminal History and Background Checks," presented under Docket No. 16-0506-0901, with effective date of Sine Die, 2010.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

CHILD AND FAMILY SERVICES

Docket No. 16-0601-0901 (Pending)

The service of "professional foster care" is being renamed and its rules replaced with "treatment foster care" rules that align with the treatment foster care rules under IDAPA 16.07.37, "Children's Mental Health Services." Alignment between these two chapters will help eliminate confusion for treatment foster parents with children or youth who may be participating in either Child and Family Services or Children's Mental Health programs.

Motion: I, Janet Penfold, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for "Child and Family Services," presented under Docket No. 16-0601-0901, with an effective date of Sine Die, 2010.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

Docket No. 16-0602-0901 (Pending Fee)

These rule changes provide requirements for areas related to daycare licensing including fees, criminal history checks, safety and health standards, licensure requirements, suspension, denial, and revocation of licenses. While amending these rules for daycare standards, other updates were made for consistency in language and for clarification, deleting obsolete language and updating references. These amendments will help assure processes that will

provide protection for the health and safety of children in daycares licensed by the Department.

Motion: I, Stephen Weeg, move that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for "Rules Governing Standards for Child Care Licensing," presented under Docket No. 16-0602-0901, with an effective date of July 1, 2010.

Second: Quane Kenyon

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

RULES AND MINIMUM STANDARDS GOVERNING ALCOHOL/DRUG ABUSE PREVENTION AND TREATMENT PROGRAMS

Docket No. 16-0603-0901 (Repeal)

This chapter is being repealed and rewritten (Docket No. 16-0720-0901) to bring the standards for alcohol and drug abuse prevention and treatment programs up to current practice and standards.

Motion: I, Stephen Weeg, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for "Rules and Minimum Standards Governing alcohol/Drug Abuse Prevention and Treatment Programs," presented under Docket No. 16-0603-0901 with an effective date of May 1, 2010.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

Docket No. 16-0701-0901 (Pending)

This rulemaking changed the definition of family household to include all household members and their income except for persons on supplemental security income, disability income, or non-dependent adult siblings.

Motion: I, Darrell Kerby, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for "Behavioral Health Sliding Fee Schedules," presented under Docket No. 16-0701-0901, with an effective date of Sine Die, 2010.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg - 7
Nays: None

Motion carried.

**ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT
SERVICES FACILITIES AND PROGRAMS**

Docket No. 16-0720-0901 (Proposed) & (Pending Fee)

This chapter has been rewritten to bring in new terms and current practice in substance use disorders treatment programs. The following changes were made in the rewritten chapter of rule:

- Added, deleted, and revised definitions;
- Revised the application process for program approval and added fees for the application and renewal of programs;
- Updated or eliminated those areas that are no longer applicable to current practices and removed obsolete language;
- Expanded criminal background checks to include employees working in programs serving adults;
- Included Recovery Support Services, i.e., safe and sober housing, transportation, child care, family education, life skills education, drug testing, and clinical case management; and
- Finally, the standard “required sections” of this chapter of rule were updated to conform to the current requirements of the Idaho Department of Administration’s Office of Administrative Rules (OAR).

Motion: I, Stephen Weeg, move to amend the pending rule on Docket No. 16-0720-0901 as follows to reinstate under 135-01, item B 1, 2, and 3 to reinstate fees for renewals.

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

Motion: I, Stephen Weeg, move to amend pending rule on Docket No. 16-0720-0901 delete under section 130-01, item J 4.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

Motion: I, Stephen Weeg, move that the Idaho Board of Health and Welfare adopt the "Proposed" and "Pending Fee" rules for "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," as amended presented under Docket No. 16-0720-0901, with an effective date of May 1, 2010.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

**RULES AND MINIMUM STANDARDS FOR NONHOSPITAL, MEDICALLY-MONITORED
DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS**

Docket No. 16-0750-0902 (Pending Fee)

A need has been identified for a nonhospital, medically-monitored detoxification/mental health facility in Idaho. Currently, no standards exist for licensing or regulating these proposed facilities. This rule chapter will provide the minimum standards, licensing, and regulations for a certificate of approval to operate a nonhospital medically-monitored detoxification/mental health diversion unit in Idaho. These rules also provide requirements for:

- Application for a certificate approval, renewal, and fee requirements;
- Investigations, complaints, remedies, penalties, and enforcement actions including denial, suspension, or revocation of certificate of approval;
- Standards including policies and procedures on: client rights, medical care, services, and treatment;
- Requirements for specific types of services: Detoxification Unit, Mental Health Diversion Unit, and Sobering Station;
- Staff qualifications, staffing hours, and work responsibilities; and
- Minimum design and construction requirements for a facility.

Motion: I, Dan Fuchs, move that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for "Rules and Minimum Standards for NonHospital, Medically-Monitored Detoxification/Mental Health Diversion Units," presented under Docket No. 16-0750-0902, with an effective date of Sine Die, 2010.

Second: Janet Penfold

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

RECOMMENDATIONS FROM NOMINATING COMMITTEE

The Nominating Committee recommended the Board officers remain the same for the upcoming year 2010.

Motion: Tom Stroschein moved that the current officers remain in their same positions for the upcoming year.
Dr. Roberge – Chairman
Janet Penfold – Vice Chairman
Richard Armstrong – Secretary

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Roberge, Stroschein, Weeg – 7
Nays: None

Motion carried.

SET DATES FOR 2010 BOARD MEETINGS

The Board of Health and Welfare will meet once a quarter for the year 2010. Scheduled meetings are as follows:

Thursday, February 18, 2010
Thursday, May 20, 2010
Thursday, August 19, 2010
Thursday, November 18, 2010

Additional meetings/days may be added if necessary, at the discretion of the Chairman.

MEDICAID BUDGET REPORT

Director Armstrong presented this budget report to Leadership, JFAC and the Governor in prior meetings. 84% of Health & Welfare dollars go out for Private Providers, businesses in Idaho for services delivered to our customers. Only 9% represents personnel costs. 7% is for the operating costs of the contractors we pay, who provide services not handled by our employees.

In the Division of Medicaid, 96% of all Medicaid dollars go out to Private Industries in Idaho and a mere 1% is paid out for personnel. 3% is for operating costs, including the actual administration of the claims system for Medicaid.

The operating and personnel budget are what control eligibility to determine who does and does not receive benefits. We can not continue weakening this base or there will be no opportunity to control the budget.

In the 2011 budget, the only inflation is in the provider area. The Department of Health and Welfare does not have salary increases, nor have they hired more employees. Health and Welfare's operating budgets are fairly fixed with long term contractors.

At the end of FY2010, we will be short an estimated \$14 million. We will have a supplemental we will present to JFAC. In the past, JFAC funded these supplementals. The Governor proclaimed there would be a 3.3% withhold for the Department of Health and Welfare. Idaho requires a cash balanced budget. Therefore, we will need to delay payment to providers until after July 1st in order to meet the constitutional requirements.

The Division of Medicaid initiated a number of strategies to reduce spending. The Medicaid 2010 budget was approved, it continued the holdbacks from SFY2009 and assumed new cost containment initiatives would be implemented to further reduce spending.

We have many targets and initiative that we are studying and are under way. As we have had discussions with Legislators and specifically the Governor, we are starting to receive some guidance from him that will help us become more focused on exactly what we are required to do. There is tremendous sentiment on the part of Legislators and the Governor to try and moderate the cuts that we are required to make. The Department of Health & Welfare's responsibility is to protect the citizens of Idaho. The decision on what we give up must revolve around the health and safety of our citizens.

The Department of Health & Welfare is reviewing strategies throughout the country to see what has and hasn't worked in other states to find the safest path forward for Idaho.

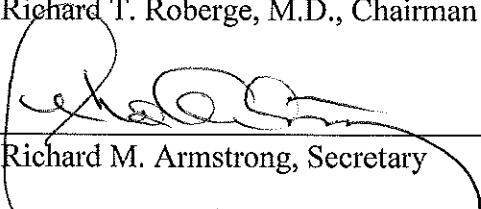
ADJOURNMENT

The next meeting of the Board of Health and Welfare is scheduled to be held February 18, 2010. There being no further business to come before the Board, Chairman Roberge adjourned the meeting at 3:05 p.m.

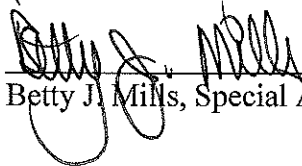
Respectfully signed and submitted by:



Richard T. Roberge, M.D., Chairman



Richard M. Armstrong, Secretary



Betty J. Mills, Special Assistant